

ORIGINAL

DOCKET FILE COPY ORIGINAL

Brooks Fiber
Ameritech-Michigan

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D. C. 20554

RECEIVED

JUL 17 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Application of Ameritech Michigan Pursuant to
Section 271 of the Telecommunications Act of
1996 to Provide In-Region, InterLATA Services
in Michigan

CC Docket No. 97-137

**OPPOSITION TO
AMERITECH MOTION TO STRIKE**

Brooks Fiber Communications of Michigan, Inc. ("Brooks Fiber") hereby opposes
Ameritech's July 7, 1997 Motion to Strike the Opposition of Brooks Fiber
Communications of Michigan to Ameritech's Application ("Motion to Strike").

The sole basis for Ameritech's Motion to Strike is Brooks Fiber's purported failure
to file an affidavit in support of the factual statements contained in the Opposition of
Brooks Fiber Communications of Michigan to Ameritech's Application, which was filed
with the Commission on June 10, 1997 ("Brooks Fiber Opposition").¹ Yet at the same
time, Ameritech expressly concedes that the Commission's procedural requirements
governing Section 271 proceedings *do not require* such supporting affidavits from parties
opposing or commenting upon Section 271 applications.² Commission procedural

¹ Motion to Strike at 1.

² Motion to Strike at 2.

No. of Copies rec'd
List ABOVE

requirements for Section 271 applications, however, explicitly do require such an affidavit from the applicant.³ Ameritech asserts that it “would be unfair” for the Commission not to impose the same requirement on opposing parties.⁴ In fashioning its procedural requirements, however, the Commission properly was more concerned about the accuracy of the filings of the Section 271 applicants -- as well it should be given the history of this proceeding. If the Commission believed that fairness required supporting affidavits from parties opposing Section 271 applications, it could have, and would have, imposed such a requirement in the Section 271 Public Notice.

Ameritech’s frivolous request that the Brooks Fiber Opposition be stricken *in its entirety*⁵ appears to be a last desperate attempt to prevent the Commission from having all the facts before it as it evaluates Ameritech’s application. Because the Motion to Strike, by Ameritech’s own admission, has no basis in existing law or regulation but rather relies upon an unsupported “wish list” of procedures, the Commission should deny the Motion to Strike.

³ See Procedures for Bell Operating Company Applications Under New Section 271 of the Communications Act, Public Notice, Release No. FCC 96-469 (Dec. 6, 1996) (“Section 271 Public Notice”).

⁴ Motion to Strike at 2-4.

⁵ Motion to Strike at 4.

CONCLUSION

For the reasons set forth above, the Commission promptly should deny the Motion to Strike.

Respectfully submitted:

Brooks Fiber Communications
of Michigan, Inc.

Todd J. Stein /sen

Of Counsel:

Cheryl A. Tritt
Charles H. Kennedy
Morrison & Foerster LLP
2000 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

By: Todd J. Stein
Its: Attorney
2855 Oak Industrial Drive, N.E.
Grand Rapids, Michigan 49525
(616) 224-4358

July 17, 1997

CERTIFICATE OF SERVICE

I, Kimberly E. Thomas, do hereby certify that the foregoing **OPPOSITION TO AMERITECH MOTION TO STRIKE** was mailed on this 17th day of July, 1997, via first class U.S. mail to the following:

William F. Caton, Acting Secretary *
Federal Communications Commission
1919 M Street, N.W. - Room 222
Washington, D.C. 20554

Chairman Reed E. Hundt *
Federal Communications Commission
1919 M Street, N.W. - Room 814
Washington, D.C. 20554

Commissioner James H. Quello *
Federal Communications Commission
1919 M Street, N.W. - Room 802
Washington, D.C. 20554

Commissioner Susan Ness *
Federal Communications Commission
1919 M Street, N.W. - Room 832
Washington, D.C. 20554

Commissioner Rachelle B. Chong *
Federal Communications Commission
1919 M Street, N.W. - Room 844
Washington, D.C. 20554

Regina Keeney, Chief *
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W. - Room 500
Washington, D.C. 20554

Larry Atlas *
Associate Chief
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W. - Room 500
Washington, D.C. 20554

A. Richard Metzger *
Deputy Chief
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W. - Room 500
Washington, D.C. 20554

Don Russell, Chief
Telecommunications Task Force
Antitrust Division
US Department of Justice
Room 8104 Judiciary Center
555 4th Street, N.W.
Washington, D.C. 20001

Richard J. Metzger, General Counsel
Association of Local Telecommunications
Services
1200 19th Street, N.W.
Washington, D.C. 20036

Dorothy Wideman
Secretary
Michigan Public Service Commission
6545 Mercantile Way
P.O. Box 30221
Lansing, Michigan 48909-7721

Kelly R. Welsh
John T. Lenahan
Michael J. Karson
Larry R. Peck
Gary L. Phillips
Ameritech Corporation
30 South Wacker Drive
Chicago, IL 60606

John M. Dempsey
Craig A. Anderson
Ameritech Michigan
444 Michigan Avenue
Detroit, MI 48226

Stephen M. Shapiro
Theodore A. Livingston
Douglas A. Poe
John E. Muench
Christian F. Binnig
Mayer, Brown & Platt
190 South LaSalle Street
Chicago, IL 60603

Antoinette Cook Bush
Mark C. Del Bianco
Skadden, Arps, Slate, Meagher & Flom
1440 New York Avenue, N.W.
Washington, D.C. 20005

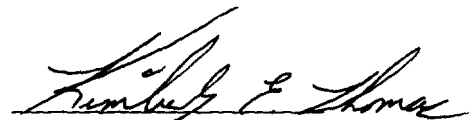
ITS, Inc. *
1231 20th Street, N.W.
Washington, D.C. 20037

* Hand Delivered

John Gockley
Ameritech Communications Incorporated
9525 West Bryn Mawr
Rosemont, IL 60018

Kenneth S. Geller
Mark H. Gitenstein
Mayer, Brown & Platt
2000 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Frank J. Kelley
Attorney General
State of Michigan
P.O. Box 303212
Lansing, MI 48909



Kimberly E. Thomas

DOCUMENT OFF-LINE

This page has been substituted for one of the following:

- o An oversize page or document (such as a map) which was too large to be scanned into the RIPS system.

- o Microfilm, microform, certain photographs or videotape.

- o ~~Other~~ other materials which, for one reason or another, could not be scanned into the RIPS system.

The actual document, page(s) or materials may be reviewed by contacting an Information Technician. Please note the applicable docket or rulemaking number, document type and any other relevant information about the document in order to ensure speedy retrieval by the Information Technician.

1 Diskette